

AMENDED IN SENATE APRIL 15, 2004

AMENDED IN SENATE APRIL 12, 2004

SENATE BILL

No. 1266

Introduced by Senator Torlakson
(Coauthor: Assembly Member Maze)

February 13, 2004

An act to amend ~~Section 56375~~ *Sections 56375 and 56375.3* of the Government Code, relating to annexation.

LEGISLATIVE COUNSEL'S DIGEST

SB 1266, as amended, Torlakson. Annexation.

~~Under~~

(1) *Under* existing law, the local agency formation commission in each county has specified powers and duties concerning the review and approval and disapproval of proposals for changes of organization or reorganization of cities and districts within the county. However, a commission may not disapprove an annexation of contiguous territory to a city initiated by resolution of the city governing body if the commission finds that the territory meets any of a number of specified conditions. One of these conditions is that the territory is surrounded or substantially surrounded by the city or by the city and a county boundary or the Pacific Ocean, is substantially developed or developing, is not prime agricultural land, as defined, is designated for urban growth by the general plan of the city, and is not within the sphere of influence of another city.

This bill would revise that condition under which the commission may not disapprove the annexation to specify that: ~~(1)~~ (a) not less than 51 percent of the exterior boundary of the territory to be annexed is

surrounded by the annexing city, by that city and a county boundary or the Pacific Ocean, or that city and another city, ~~(2)~~ *unless the commission adopts a different definition for “substantially surrounded,”* (b) the territory is either developed or designated for urban growth by the general plan of the annexing city, ~~(3)~~ (c) sewer service, structural fire protection service, streets and roads, and domestic water service will be available upon annexation, and ~~(4)~~ (d) the territory does not exceed 1,000 acres.

(2) *Existing law requires the commission to approve island annexations that meet certain requirements. One of those requirements is that if it does not exceed 75 acres in area that area constitutes the entire island, and that island does not constitute a part of an unincorporated area that is more than 100 acres in area.*

This bill would change the 75-acre requirement to 100 acres. The bill would also require that when the territory proposed to be annexed is substantially surrounded by a city and another city, the city that initiated the proposal, prior to submitting the application to the commission, shall notify the other city of its intention to initiate the annexation proposal and would specify the contents and requirements of that notification. The bill would also require the commission to consider the effect of the proposal on any urban limit. The bill would permit the commission to disapprove the proposal for annexation if the other city objects in writing.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 56375 of the Government Code is
2 amended to read:

3 56375. The commission shall have all of the following
4 powers and duties subject to any limitations upon its jurisdiction
5 set forth in this part:

6 (a) To review and approve or disapprove with or without
7 amendment, wholly, partially, or conditionally, proposals for
8 changes of organization or reorganization, consistent with written
9 policies, procedures, and guidelines adopted by the commission.
10 The commission may initiate proposals for (1) consolidation of
11 districts, as defined in Section 56036, (2) dissolution, (3) merger,
12 or (4) establishment of a subsidiary district, or a reorganization

that includes any of these changes of organization. A commission shall have the authority to initiate only a (1) consolidation of districts, (2) dissolution, (3) merger, (4) establishment of a subsidiary district, or (5) a reorganization that includes any of these changes of organization, if that change of organization or reorganization is consistent with a recommendation or conclusion of a study prepared pursuant to Section 56378, 56425, or 56430 and the commission makes the determinations specified in subdivision (b) of Section 56881. However, a commission shall not have the power to disapprove an annexation to a city, initiated by resolution, of contiguous territory that the commission finds is any of the following:

(1) The territory to be annexed meets all of the following criteria:

~~(A) Not less than 51 percent of the exterior boundary of the territory to be annexed is surrounded by the city to which the~~

(A) Surrounded or substantially surrounded by the city to which the annexation is proposed, by that city and a county boundary or the Pacific Ocean, or that city and another city. In the absence of a standard adopted by a commission, as used in this paragraph, "substantially surrounded" means that not less than 51 percent of the exterior boundary of the territory proposed to be annexed is surrounded by the city to which the annexation is proposed, by that city and a county boundary or the Pacific Ocean, or that city and another city. Nothing in this section shall preclude a commission from adopting a higher standard that defines "substantially surrounded."

(B) Is substantially developed, *developing*, or is designated for urban growth by the general plan of the annexing city.

(C) Sewer service, structural fire protection service, streets and roads, and domestic water service will be available to the affected territory upon annexation from either the annexing city or special districts.

(D) Is not prime agricultural land, as defined by Section 56064.

(E) Does not exceed 1,000 acres.

(F) Is not within the sphere of influence of another city.

(2) The territory to be annexed is located within an urban service area that has been delineated and adopted by a commission, is not prime agricultural land, as defined by Section 56064, and is

1 designated for urban growth by the general plan of the annexing
2 city.

3 (3) An annexation or reorganization of unincorporated islands
4 meeting the requirements of Section 56375.3.

5 *In the situation where the affected territory is surrounded or*
6 *substantially surrounded by a city and another city, the city that*
7 *initiated the proposal shall, prior to submitting the application to*
8 *the commission, notify the other city regarding its intention to*
9 *initiate the proposal to annex the territory. The city's notice to the*
10 *other city shall describe in as much detail as is feasible the effects*
11 *of the proposal on traffic, school populations, agriculture and*
12 *open-space lands, land use policies, spheres of influence, urban*
13 *limit lines, economic development, and affordable housing. The*
14 *city's notice shall also invite the comments of the other city. As soon*
15 *as the executive officer issues a certificate of filing for that*
16 *proposal pursuant to Section 56658, the executive officer shall*
17 *promptly convene a meeting with the representatives of the city that*
18 *initiated the proposal, the other city, the county, and any affected*
19 *districts to discuss any issues related to the proposal.*
20 *Notwithstanding Section 56663, the commission shall give the*
21 *notices and conduct the hearing pursuant to Chapter 1*
22 *(commencing with Section 56650) of Part 3. At the hearing, in*
23 *addition to the other factors to be considered pursuant to Section*
24 *56668, the commission shall consider the effect of the proposal on*
25 *any urban limit line. Notwithstanding any other provision of this*
26 *section, the commission may disapprove that proposal for*
27 *annexation to the city if the other city objects in writing.*

28 As a condition to the annexation of an area that is surrounded,
29 or substantially surrounded, by the city to which the annexation is
30 proposed, the commission may require, where consistent with the
31 purposes of this division, that the annexation include the entire
32 island of surrounded, or substantially surrounded, territory.

33 A commission shall not impose any conditions that would
34 directly regulate land use density or intensity, property
35 development, or subdivision requirements. When the
36 development purposes are not made known to the annexing city,
37 the annexation shall be reviewed on the basis of the adopted plans
38 and policies of the annexing city or county. A commission shall
39 require, as a condition to annexation, that a city prezone the
40 territory to be annexed or present evidence satisfactory to the

1 commission that the existing development entitlements on the
2 territory are vested or are already at buildout, and are consistent
3 with the city's general plan. However, the commission shall not
4 specify how, or in what manner, the territory shall be rezoned.
5 The decision of the commission with regard to a proposal to annex
6 territory to a city shall be based upon the general plan and
7 rezoning of the city.

8 (b) With regard to a proposal for annexation or detachment of
9 territory to, or from, a city or district or with regard to a proposal
10 for reorganization that includes annexation or detachment, to
11 determine whether territory proposed for annexation or
12 detachment, as described in its resolution approving the
13 annexation, detachment, or reorganization, is inhabited or
14 uninhabited.

15 (c) With regard to a proposal for consolidation of two or more
16 cities or districts, to determine which city or district shall be the
17 consolidated, successor city or district.

18 (d) To approve the annexation of unincorporated,
19 noncontiguous territory, subject to the limitations of Section
20 56742, located in the same county as that in which the city is
21 located, and that is owned by a city and used for municipal
22 purposes and to authorize the annexation of the territory without
23 notice and hearing.

24 (e) To approve the annexation of unincorporated territory
25 consistent with the planned and probable use of the property based
26 upon the review of general plan and rezoning designations. No
27 subsequent change may be made to the general plan for the
28 annexed territory or zoning that is not in conformance to the
29 rezoning designations for a period of two years after the
30 completion of the annexation, unless the legislative body for the
31 city makes a finding at a public hearing that a substantial change
32 has occurred in circumstances that necessitate a departure from the
33 rezoning in the application to the commission.

34 (f) With respect to the incorporation of a new city or the
35 formation of a new special district, to determine the number of
36 registered voters residing within the proposed city or special
37 district or, for a landowner-voter special district, the number of
38 owners of land and the assessed value of their land within the
39 territory proposed to be included in the new special district. The
40 number of registered voters shall be calculated as of the time of the

1 last report of voter registration by the county elections official to
2 the Secretary of State prior to the date the first signature was
3 affixed to the petition. The executive officer shall notify the
4 petitioners of the number of registered voters resulting from this
5 calculation. The assessed value of the land within the territory
6 proposed to be included in a new landowner-voter special district
7 shall be calculated as shown on the last equalized assessment roll.

8 (g) To adopt written procedures for the evaluation of proposals,
9 including written definitions not inconsistent with existing state
10 law. The commission may adopt standards for any of the factors
11 enumerated in Section 56668. Any standards adopted by the
12 commission shall be written.

13 (h) To adopt standards and procedures for the evaluation of
14 service plans submitted pursuant to Section 56653 and the
15 initiation of a change of organization or reorganization pursuant
16 to subdivision (a).

17 (i) To make and enforce regulations for the orderly and fair
18 conduct of hearings by the commission.

19 (j) To incur usual and necessary expenses for the
20 accomplishment of its functions.

21 (k) To appoint and assign staff personnel and to employ or
22 contract for professional or consulting services to carry out and
23 effect the functions of the commission.

24 (l) To review the boundaries of the territory involved in any
25 proposal with respect to the definiteness and certainty of those
26 boundaries, the nonconformance of proposed boundaries with
27 lines of assessment or ownership, and other similar matters
28 affecting the proposed boundaries.

29 (m) To waive the restrictions of Section 56744 if it finds that
30 the application of the restrictions would be detrimental to the
31 orderly development of the community and that the area that
32 would be enclosed by the annexation or incorporation is so located
33 that it cannot reasonably be annexed to another city or
34 incorporated as a new city.

35 (n) To waive the application of Section 25210.90 or Section
36 22613 of the Streets and Highways Code if it finds the application
37 would deprive an area of a service needed to ensure the health,
38 safety, or welfare of the residents of the area and if it finds that the
39 waiver would not affect the ability of a city to provide any service.
40 However, within 60 days of the inclusion of the territory within the

1 city, the legislative body may adopt a resolution nullifying the
2 waiver.

3 (o) If the proposal includes the incorporation of a city, as
4 defined in Section 56043, or the formation of a district, as defined
5 in Section 2215 of the Revenue and Taxation Code, the
6 commission shall determine the property tax revenue to be
7 exchanged by the affected local agencies pursuant to Section
8 56810.

9 (p) To authorize a city or district to provide new or extended
10 services outside its jurisdictional boundaries pursuant to Section
11 56133.

12 (q) To enter into an agreement with the commission for an
13 adjoining county for the purpose of determining procedures for the
14 consideration of proposals that may affect the adjoining county or
15 where the jurisdiction of an affected agency crosses the boundary
16 of the adjoining county.

17 *SEC. 2. Section 56375.3 of the Government Code is amended*
18 *to read:*

19 56375.3. (a) In addition to those powers enumerated in
20 Section 56375, a commission shall do either of the following:

21 (1) Approve, after notice and hearing, the annexation to a city,
22 and waive protest proceedings pursuant to Part 4 (commencing
23 with Section 57000) entirely, if all of the following are true:

24 (A) The annexation is initiated on or after January 1, 2000, and
25 before January 1, 2007.

26 (B) The annexation is proposed by resolution adopted by the
27 affected city.

28 (C) The commission finds that the territory contained in the
29 annexation proposal meets all of the requirements set forth in
30 subdivision (b).

31 (2) Approve, after notice and hearing, the annexation to a city,
32 subject to subdivision (a) of Section 57080, if all of the following
33 are true:

34 (A) The annexation is initiated on or after January 1, 2007.

35 (B) The annexation is proposed by resolution adopted by the
36 affected city.

37 (C) The commission finds that the territory contained in the
38 annexation proposal meets all of the requirements set forth in
39 subdivision (b).

(b) Subdivision (a) applies to territory that meets all of the following requirements:

(1) It does not exceed ~~75~~ 100 acres in area, that area constitutes the entire island, and that island does not constitute a part of an unincorporated area that is more than 100 acres in area.

(2) The territory constitutes an entire unincorporated island located within the limits of a city, or constitutes a reorganization containing a number of individual unincorporated islands.

(3) It is surrounded in either of the following ways:

(A) Surrounded, or substantially surrounded, by the city to which annexation is proposed or by the city and a county boundary or the Pacific Ocean.

(B) Surrounded by the city to which annexation is proposed and adjacent cities.

(C) This subdivision shall not be construed to apply to any unincorporated island within a city that is a gated community where services are currently provided by a community services district.

(D) Notwithstanding any other provision of law, at the option of either the city or the county, a separate property tax transfer agreement may be agreed to between a city and a county pursuant to Section 99 of the Revenue and Taxation Code regarding an annexation subject to this subdivision without affecting any existing master tax sharing agreement between the city and county.

(4) It is substantially developed or developing. The finding required by this subparagraph shall be based upon one or more factors, including, but not limited to, any of the following factors:

(A) The availability of public utility services.

(B) The presence of public improvements.

(C) The presence of physical improvements upon the parcel or parcels within the area.

(5) It is not prime agricultural land, as defined by Section 56064.

(6) It will benefit from the annexation or is receiving benefits from the annexing city.

(c) Notwithstanding any other provision of this subdivision, this subdivision shall not apply to all or any part of that portion of the development project area referenced in subdivision (e) of Section 33492.41 of the Health and Safety Code that as of January 1, 2000, meets all of the following requirements:

1 (1) Is unincorporated territory.

2 (2) Contains at least 100 acres.

3 (3) Is surrounded or substantially surrounded by incorporated
4 territory.

5 (4) Contains at least 100 acres zoned for commercial or
6 industrial uses or is designated on the applicable county general
7 plan for commercial or industrial uses.

8 *SEC. 3. In enacting Section 1 of this act to amend Section*
9 *56375 of the Government Code, the Legislature finds and declares*
10 *that there is no change to the requirement in Section 56375.5 that*
11 *requires changes of organization or reorganizations to be*
12 *consistent with the spheres of influence of the local agencies*
13 *affected by those proposals, and no changes to the requirements of*
14 *the California Environmental Quality Act (Division 13*
15 *(commencing with Section 21000) of the Public Resources Code).*

